

AMENDED IN ASSEMBLY APRIL 21, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 499

Introduced by Assembly Member Leno

February 16, 2005

An act to ~~amend Section 2002~~ *add and repeal Section 2002.3* of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 499, as amended, Leno. Public contracts: preferences: small and local businesses: *San Francisco Community College District*.

Existing law authorizes a local agency to provide for a small business preference in construction, the procurement of goods, or the delivery of services, and to establish a subcontracting participation goal for small businesses on contracts with a preference for those bidders who meet the goal. Existing law, for purposes of this authority, requires that the term "small business" be defined by each local agency.

This bill would authorize ~~a local agency~~ *the San Francisco Community College District, pursuant to a 5-year pilot project*, to provide similar preferences to a small and local business, *would define "local," for the purposes of the bill*, and would require ~~each local agency~~ *the district* to define the term "small and local business," *business" for each contract that is bid under this section*, as specified.

The bill would require the district to include prescribed data relating to the pilot project in an annual report to the Legislative Analyst.

The bill would declare that unique circumstances applicable to the San Francisco Community College District preclude the enactment of a general statute.

These provisions would be repealed on January 1, 2011.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 2002 of the Public Contract Code is~~
2 ~~amended to read:~~
3 *SECTION 1. Section 2002.3 is added to the Public Contract*
4 *Code, to read:*
5 2002.3. (a) *This section establishes a pilot project that*
6 *applies only to the San Francisco Community College District.*
7 (b) *Notwithstanding any other provision of law requiring a*
8 *local agency to award contracts to the lowest responsible bidder,*
9 *the district may do any of the following in facilitating contract*
10 *awards to small and local businesses:*
11 (1) *Provide for a small and local business preference, in*
12 *construction, the procurement of goods, or the delivery of*
13 *services where responsibility and quality are equal. The*
14 *preference to a small and local business shall be up to 5 percent*
15 *of the lowest responsible bidder meeting specifications.*
16 (2) *Establish a subcontracting participation goal for small and*
17 *local businesses on contracts and grant a preference, up to a*
18 *maximum of 5 percent, to those bidders who meet the goal.*
19 (3) *Require bidders to make good faith efforts to meet a*
20 *subcontracting participation goal for small and local business*
21 *contracts. Bidders that fail to meet the goal shall demonstrate*
22 *that they made good faith efforts to utilize small and local*
23 *business contractors.*
24 (c) *As used in this section:*
25 (1) *“District” means the San Francisco Community College*
26 *District.*
27 (2) *“Local” refers to an area that is no smaller than, or*
28 *coterminous with, the jurisdiction of the San Francisco*
29 *Community College District and that is no larger than, or*
30 *coterminous with, an area that consists of the member counties of*
31 *the Association of Bay Area Governments, which include the*
32 *counties of Alameda, Contra Costa, Marin, Napa, San Francisco,*
33 *San Mateo, Santa Clara, Solano, and Sonoma.*

1 (3) “Small and local business” shall be defined by the district
2 for each contract to be awarded under this section. The district
3 shall issue this definition no later than the initial solicitation for
4 each contract that is bid under this section. In defining “small
5 and local business” under this paragraph, the district shall
6 adhere to the definition of “local” set forth in paragraph (2).

7 (d) For each year of the pilot project established by this
8 section, the district shall include all of the following in an annual
9 report to the Legislative Analyst:

10 (1) The number of bidders for each contract that is bid under
11 this section.

12 (2) The number of bidders that qualified for the small business
13 preference established under Section 2002 for each contract that
14 is bid under this section.

15 (3) The number of bidders that qualified for the small and local
16 business preference for each contract that is bid under this
17 section.

18 (4) The number of contracts bid under this section in which the
19 small business preference established under Section 2002 was
20 the deciding factor in the award of the contract.

21 (4) The number of contracts bid under this section in which the
22 small and local business preference was the deciding factor in
23 the award of the contract.

24 (e) This section shall remain in effect only until January 1,
25 2011, and as of that date is repealed, unless a later enacted
26 statute, that is enacted before January 1, 2011, deletes or extends
27 that date.

28 SEC. 2. The Legislature finds and declares that, because of
29 the unique circumstances applicable to the San Francisco
30 Community College District, a general statute within the
31 meaning of Section 16 of Article IV of the California Constitution
32 cannot be enacted. The enactment of Section 1 of this act is
33 therefore necessary.

34 2002. ~~(a) Notwithstanding any other provision of law~~
35 ~~requiring a local agency to award contracts to the lowest~~
36 ~~responsible bidder, any local agency may do any of the following~~
37 ~~in facilitating contract awards to small businesses or small and~~
38 ~~local businesses:~~

39 ~~(1) Provide for a small business preference, or a small and~~
40 ~~local business preference, in construction, the procurement of~~

1 goods, or the delivery of services where responsibility and
2 quality are equal. The preference to a small business or a small
3 and local business shall be up to 5 percent of the lowest
4 responsible bidder meeting specifications.

5 (2) Establish a subcontracting participation goal for small
6 businesses or small and local businesses on contracts and grant a
7 preference, up to a maximum of 5 percent, to those bidders who
8 meet the goal.

9 (3) Require bidders to make good faith efforts to meet a
10 subcontracting participation goal for small business contracts or
11 small and local business contracts. Bidders that fail to meet the
12 goal shall demonstrate that they made good faith efforts to utilize
13 small business contractors or small and local business
14 contractors.

15 (b) The term “small business” or “a small and local business,”
16 as used in this section, shall be defined by each local agency. The
17 term “local,” however, may not be defined to mean a
18 geographical area that is smaller than the boundaries of the local
19 agency.